

AMENDED IN SENATE JUNE 18, 2007

AMENDED IN SENATE APRIL 24, 2007

AMENDED IN SENATE APRIL 10, 2007

SENATE BILL

No. 586

**Introduced by Senator Dutton
(Principal coauthor: Senator Correa)**

February 22, 2007

An act to add Section 53545.9 to, and to add Chapter 8.5 (commencing with Section 50705) to Part 2 of Division 31 of, the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 586, as amended, Dutton. Affordable Housing Innovation Fund: ~~California~~ Affordable Housing Revolving Development and Acquisition Program.

Existing law, the Housing and Emergency Shelter Trust Fund Act of 2006, authorizes the issuance of bonds in the amount of \$2,850,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds are required to be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks. The act establishes the Housing and Emergency Shelter Trust Fund of 2006 in the State Treasury and requires the sum of \$1,500,000,000 to be deposited in the Affordable Housing Account, which the act establishes in the fund. The act continuously appropriates the money in the account in accordance with a specified schedule that requires, among other things, the transfer of the sum of \$100,000,000

to the Affordable Housing Innovation Fund, which the act establishes in the State Treasury, to be administered by the Department of Housing and Community Development and expended for competitive grants or loans to sponsoring entities that develop, own, lend, or invest in affordable housing, and to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing.

This bill would establish the ~~California~~ Affordable Housing Revolving Development and Acquisition Program under the administration of the department ~~and would require the department to issue a Notice of Funding Availability to select a program manager to review and approve loan applications, originate loans, and service loans.~~ The bill would authorize applicants under the program to apply for loans to purchase real property for the development or preservation of housing affordable to low-income households and would require applicants to demonstrate certain qualification factors. The bill would require the department to adopt *guidelines and regulations* establishing the minimum criteria required of the ~~program~~ fund manager and applicants, as well as a point system for prioritizing requests in the event that requests exceed the funds available for the program in any given year. *The guidelines and regulations would give priority to applicants that proposed development projects with the greatest level of affordability.*

The bill would require the department to issue a request for qualification to select a private sector entity to manage the Loan Fund. The bill would establish criteria that the fund manager must meet and would also require applicants for the fund manager position to submit a business plan that addresses appropriate financial and internal controls as well as a description of how the lender would close loans quickly.

The bill would require the funds in the Affordable Housing Innovation Fund to be allocated in the amount of \$50,000,000 for the ~~California~~ Affordable Housing Revolving Development and Acquisition Program, *of which \$25,000,000 would be made available to the Loan Fund and \$25,000,000 would be made available to the Practitioner Fund; \$5,000,000 for the Construction Liability Insurance Reform Pilot Program proposed under AB 792 of the 2007–08 Regular Session, as amended March 29, 2007, if that program is established, which this bill would establish within the department; \$35,000,000 for a local housing trust fund matching grant program established under a specified provision of existing law; and ~~\$10,000,000~~ \$5,000,000 for the*

Mobilehome Park Resident Ownership Program established under a specified provision of existing law. The bill would make an appropriation by authorizing the funds in the continuously appropriated fund to be expended for these additional purposes.

The bill would require the department to grant preference to a housing trust fund that ~~declares its intention to provide~~ *agrees to expend* more than 65% of ~~available state~~ funds to a specified first-time homebuyers' program and to set aside funding for a specified 36-month period for newly established housing trust funds that are in a county with a population of less than ~~260,000~~ 425,000 persons when awarding the \$35,000,000 under the local housing trust fund matching grant program.

The bill would establish the School Housing Program under the administration of the department. The purpose of the program would be to establish a pilot program that provided assistance to school districts and community college districts attempting to attract and retain district employees through provision of on campus housing.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature hereby finds and declares
2 that the Housing and Emergency Shelter Trust Fund Act of 2006
3 allocates the amount of one hundred million dollars (\$100,000,000)
4 to the Affordable Housing Innovation Fund established in the State
5 Treasury under subparagraph (F) of paragraph (1) of subdivision
6 (a) of Section 53545 of the Health and Safety Code and state that
7 the expenditure of those funds is subject to the enactment of a
8 subsequent statute approved by a $\frac{2}{3}$ vote of each house of the
9 Legislature.

10 (b) Accordingly, it is the intent of the Legislature in enacting
11 this act to program the funds made available under subparagraph
12 (F) of paragraph (1) of subdivision (a) of Section 53545 of the
13 Health and Safety Code from the Affordable Housing Innovation
14 Fund.

15 SEC. 2. Chapter 8.5 (commencing with Section 50705) is added
16 to Part 2 of Division 31 of the Health and Safety Code, to read:

1 CHAPTER 8.5. AFFORDABLE HOUSING ~~PROGRAMS~~ REVOLVING
2 DEVELOPMENT AND ACQUISITION PROGRAM

3
4 ~~50705. (a) The California Affordable Housing Revolving~~
5 ~~Development and Acquisition Program is hereby established under~~
6 ~~the administration of the department for the purpose of funding~~
7 ~~projects to develop or preserve affordable housing.~~

8 ~~(b) The department shall issue a Notice of Funding Availability~~
9 ~~to select a program manager to review and approve loan~~
10 ~~applications, originate loans, and service loans.~~

11 *50705. (a) The Affordable Housing Revolving Development*
12 *and Acquisition Program is hereby established for the purpose of*
13 *funding the acquisition of property to develop or preserve*
14 *affordable housing. The program will be comprised of a Loan*
15 *Fund and a Practitioner Fund.*

16 *(b) The department shall adopt guidelines and regulations for*
17 *the operation of the program and may administer the program*
18 *under those guidelines for 24 months after the date of adoption of*
19 *the guidelines. The guidelines and regulations shall not be subject*
20 *to the requirements of Chapter 3.5 (commencing with Section*
21 *11340) of Division 3 of Title 2 of the Government Code.*

22 *50706. (a) (1) The department shall issue a request for*
23 *qualification to select a private sector entity to manage the Loan*
24 *Fund for a period of five years, and the agreement may be extended*
25 *in additional five-year increments. The selected fund manager will*
26 *be responsible for reviewing and approving loan applications,*
27 *originating and servicing loans, and establishing terms and*
28 *conditions for loan applications. The fund manager shall meet all*
29 *of the following criteria:*

30 *(A) Be a nonprofit lender with experience making similar loans*
31 *in this state.*

32 *(B) Have originated and serviced loans in the aggregate amount*
33 *of not less than thirty million dollars (\$30,000,000) that were used*
34 *to develop or acquire affordable housing, including at least ten*
35 *million dollars (\$10,000,000) or more in acquisition loans.*

36 *(C) Have at least twenty-five million dollars (\$25,000,000) of*
37 *its own capital invested in loans to affordable housing developers*
38 *whose characteristics are similar to the criteria the fund manager*
39 *will be implementing under the new gap acquisition fund.*

1 (D) Be the originator of loans in the aggregate amount of
2 twenty-five million dollars (\$25,000,000) or more using bank or
3 other investor capital.

4 (2) Applicants for fund manager shall submit a detailed business
5 plan describing how the entity intends to meet the requirements
6 of the Loan Fund. The business plan shall include a description
7 of appropriate financial and internal controls and underwriting
8 standards and procedures. The plan shall also demonstrate how
9 the lender will close loans quickly.

10 (e)

11 (b) Applicants may apply to the fund manager for loans to
12 purchase real property for the development or preservation of
13 housing affordable to low-income households. Loans made under
14 this section shall be for a maximum term of five years.

15 (d)

16 (c) Applicants shall demonstrate all of the following:

17 (1) The support of the local government in which the real
18 property is located for the proposed development project. Support
19 may be demonstrated through a letter from the governing board
20 or the manager of the housing or community development
21 department.

22 (2) Availability of additional funds equal to three times the loan
23 amount.

24 (3) Sufficient organizational stability and capacity to carry out
25 the proposed development project for which the property is being
26 purchased. Capacity may be demonstrated by substantial successful
27 experience performing similar activities, or through other means
28 acceptable to the department.

29 (4) Completion of not less than five housing development
30 projects, with each project having not less than 40 percent of the
31 units sold as affordable housing cost, as defined in Section 50052.5,
32 or rented at an affordable rent, as defined by Section 50053.

33 (e) ~~Loans made under this section shall be for a term of two to~~
34 ~~five years.~~

35 (f)

36 (d) ~~The department shall adopt regulations establishing~~
37 ~~guidelines and regulations shall establish~~ the minimum criteria
38 required of the ~~program~~ fund manager and applicants, as well as
39 a point system for prioritizing requests in the event that requests
40 exceed the funds available for the program in any given year, and

~~procedures allowing loans to close within 30 days after application.~~
year. The guidelines and regulations shall give priority to applicants that propose development projects with the greatest level of affordability. The guidelines and regulations shall also provide that, in the event that the property is sold or transferred for purposes other than affordable housing, any equity not originally contributed by the borrower shall return to the state for the purposes of this program.

50707. (a) The department shall issue a request for qualification to select a nonprofit entity that qualifies under Section 501(c)(3) of the Internal Revenue Code to loan moneys from the Practitioner Fund to purchase real property for the development or preservation of housing affordable to low- and moderate-income households. The selection of the entity shall be made by the department's Loan and Grant Committee. The loan from the Practitioner Fund will be for a maximum of five years.

(b) The entity selected pursuant to subdivision (a) shall demonstrate all of the following:

(1) Operation as a nonprofit entity that qualifies under Section 501(c)(3) of the Internal Revenue Code with housing development experience in this state and a minimum of 25 employees.

(2) Availability of additional funds of at least three times the loan amount.

(3) Completion of not less than 3,000 total housing units, with each housing development project having a majority of its units affordable to low- and moderate-income families, as defined in Section 50052.5. For purposes of this requirement, the applicant shall be the developer of record with primary day-to-day management and financial responsibility for the development.

(4) Sufficient organizational stability and capacity to use the Practitioner Fund to achieve scale economies in the development and preservation of affordable housing. Capacity may be demonstrated by substantial successful experience in affordable housing development and management, including successful partnerships with local government entities.

(5) Assets worth at least two hundred million dollars (\$200,000,000), to demonstrate evidence of sufficient net worth for assurance of repayment of the loan.

(c) The guidelines and regulations shall establish the minimum criteria required of the practitioner and a point system for rating

1 *and ranking responses. The guidelines and regulations shall also*
2 *provide that, in the event that property acquired with state funds*
3 *is sold or transferred, for purposes other than affordable housing,*
4 *any equity not originally contributed by the borrower shall be used*
5 *for the purposes of this program. The department shall give priority*
6 *to those respondents who demonstrate an immediate need of funds*
7 *from the committee, or a commitment to provide the greatest level*
8 *of affordability for the longest duration.*

9 SEC. 3. Section 53545.9 is added to the Health and Safety
10 Code, to read:

11 53545.9. Of the one hundred million dollars (\$100,000,000)
12 transferred to the Affordable Housing Innovation Fund established
13 in the State Treasury under subparagraph (F) of paragraph (1) of
14 subdivision (a) of Section 53545, the following amounts shall be
15 allocated as follows:

16 (a) (1) The department shall make available the amount of fifty
17 million dollars (\$50,000,000) for the ~~California Affordable Housing~~
18 ~~Revolving Development and Acquisition Program established~~
19 ~~under Chapter 8.2 (commencing with Section 50705) of Part 2.~~

20 (2) *Of the amount made available for the program, twenty-five*
21 *million dollars (\$25,000,000) shall be made available for the Loan*
22 *Fund and twenty-five million dollars (\$25,000,000) shall be made*
23 *available for the Practitioner Fund.*

24 (b) The department shall make available the amount of five
25 million dollars (\$5,000,000) for the Construction Liability
26 Insurance Reform Pilot Program ~~proposed under Assembly Bill~~
27 ~~792 of the 2007–08 Regular Session, as amended March 29, 2007,~~
28 ~~if that program is established,~~ *which is hereby established in the*
29 *Department of Housing and Community Development. The purpose*
30 *of the program is to promote best practices for residential*
31 *construction quality control in housing programs sponsored by*
32 *the department or the California Housing Finance Agency, as a*
33 *means of reducing insurance rates for condominium developers*
34 *in this state. Funds shall be made available in the form of grants*
35 *for predevelopment costs of condominium projects funded by the*
36 *department or the California Housing Finance Agency that utilize*
37 *enhanced construction oversight and monitoring programs and*
38 *processes including, but not limited to, video recording of the*
39 *construction process, use of quality control manuals, and increased*
40 *quality control inspections.*

1 (c) The department shall make available the amount of
2 thirty-five million dollars (\$35,000,000) for the local housing trust
3 fund matching grant program established under Section 50843.5.

4 (1) When awarding grants *from the funds allocated* under this
5 ~~subdivision from the funds allocated~~ to existing trust funds, the
6 department shall grant preference to a housing trust fund that
7 ~~declares to the department an intention to provide~~ *agrees to expend*
8 more than 65 percent of ~~available~~ *state* funds for the purpose of
9 downpayment assistance to ~~qualified~~ first-time homebuyers.

10 (2) When awarding grants from the funds allocated under this
11 subdivision to newly established housing trust funds, the
12 department shall set aside funding for a period of 36 months from
13 the date funds are first made available for newly established
14 housing trust funds that are in a county with a population of less
15 than ~~260,000~~ *425,000* persons.

16 (d) The department shall make available the amount of ~~ten~~ *five*
17 million dollars ~~(\$10,000,000)~~ *(\$5,000,000)* for the Mobilehome
18 Park Resident Ownership Program established under Chapter 11
19 (commencing with Section 50780) of Part 2.

20 (e) *(1) The School Housing Program is hereby established*
21 *under the administration of the department.*

22 *The department shall make available the amount of five million*
23 *dollars (\$5,000,000) for the School Housing Program.*

24 *(2) The purpose of the program is to establish a pilot program*
25 *of assistance to school districts and community college districts*
26 *attempting to attract and retain district employees through*
27 *provision of on campus housing.*

28 *(3) Funds shall be made available in the form of loans to school*
29 *districts or community college districts for predevelopment costs*
30 *associated with creating on campus housing for district employees.*

31 SEC. 4. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety within
33 the meaning of Article IV of the Constitution and shall go into
34 immediate effect. The facts constituting the necessity are:

35 In order to make available at the earliest possible time funds to
36 address the state's pressing need for affordable housing, it is
37 necessary that this act take effect immediately.